

# Recording of Evidence Regulation 2018

Explanatory notes for SL 2018 No. 132

Made under the

*Recording of Evidence Act 1962*

## General Outline

### Short title

*Recording of Evidence Regulation 2018*

### Authorising law

Sections 5B(3)(b) and 13 of the *Recording of Evidence Act 1962*.

### Policy objectives and the reasons for them

Legal proceedings in Queensland courts and tribunals, including oral evidence, sentencing remarks and legal argument are generally recorded and transcribed in accordance with the *Recording of Evidence Act 1962* (the Act). Records and transcriptions made under the Act are taken as evidence of anything recorded, subject to the transcription being shown to be inaccurate.

Currently, the recording and transcription of proceedings in Queensland Courts, the Queensland Civil and Administrative Tribunal and the Queensland Industrial Relations Commission is outsourced to a private provider.

Section 13 of the Act provides for the Governor in Council to make regulations that may be convenient for the administration of the Act, or that may be necessary or convenient to carry out the objects and purposes of the Act.

The *Recording of Evidence Regulation 2008* (the Regulation) supports the operation of the Act by prescribing various matters relating to the provision of copies of records and transcriptions (in print or electronic form).

Under section 54 of the *Statutory Instruments Act 1992*, the Regulation will automatically expire on 1 September 2018.

It is essential for the Regulation to be remade to support the continued effective operation of key provisions in the Act.

## **Achievement of policy objectives**

The objective is achieved by making the *Recording of Evidence Regulation 2018*, which replaces the Regulation on its expiry.

The *Recording of Evidence Regulation 2018* will provide for the same matters as contained in the Regulation, subject to minor and technical amendments to:

- ensure consistency with contemporary drafting practice;
- clarify the relationship between provisions;
- clarify requirements for financial hardship applications to the chief executive for waiver of all or part of fees otherwise payable;
- ensure provisions are up to date; and
- clarify the operation of certain fees prescribed in the schedule to the Regulation.

The *Recording of Evidence Regulation 2018* will commence on 2 September 2018.

## **Consistency with policy objectives of authorising law**

The *Recording of Evidence Regulation 2018* is consistent with the policy objectives of the authorising provisions in the Act.

## **Inconsistency with policy objectives of other legislation**

The *Recording of Evidence Regulation 2018* is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The *Recording of Evidence Regulation 2018* complements the operation of the Act.

There are no anticipated implementation costs associated with the *Recording of Evidence Regulation 2018*.

## **Consistency with fundamental legislative principles**

The *Recording of Evidence Regulation 2018* is consistent with fundamental legislative principles.

## **Consultation**

The following stakeholders were consulted on the remaking of the Regulation:

- Queensland Industrial Relations Commission;
- Chief Justice of Queensland;
- President of the Court of Appeal;
- Chief Judge of the District Court;
- Chief Magistrate;
- State Coroner;
- President of the Queensland Civil and Administrative Tribunal;
- President of the Land Court; and
- President of the Childrens Court.

The Queensland Productivity Commission advised that the objectives for sunset reviews as provided in the Queensland Government Guide to Better Regulation had been satisfactorily met.